

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"B" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1822/Mds/2015

निर्धारण वर्ष / Assessment Year : 2006-07

The Deputy Commissioner of
Income Tax,
Corporate Circle – 2(2),
Chennai - 600 034.

M/s India Builders (Chennai)
v. Private Limited,
No.AA-49, 3rd Main Road,
2nd Street, Anna Nagar,
Chennai - 600 040.

(अपीलार्थी/Appellant)

PAN : AABCI 3731 Q

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. P. Radhakrishnan, JCIT
प्रत्यर्थी की ओर से/Respondent by : None

सुनवाई की तारीख/Date of Hearing : 11.11.2015

घोषणा की तारीख/Date of Pronouncement : 20.11.2015

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-6, Chennai, dated 19.02.2015 and pertains to assessment year 2006-07.

2. The notice of hearing was served on the assessee by RPAD. The Registry has placed on record the postal acknowledgement as proof of service of notice. Even though the assessee has received the notice of hearing by RPAD, no one appeared for the assessee when the appeal was taken up for hearing. Therefore, we heard the Ld. Departmental Representative and proceeding to dispose the appeal on merit.

3. Sh. P. Radhakrishnan, the Ld. Departmental Representative, submitted that the only issue arises for consideration is with regard to the addition made by the Assessing Officer under Section 68 of the Income-tax Act, 1961 (in short 'the Act'). Referring to the order of the CIT(Appeals), more particularly page 3, para 4.4, the Ld. D.R. pointed out that the assessee filed the details of loan amount, cheque number, bank and PAN before the CIT(Appeals). According to the Ld. D.R., these details were not made available before the Assessing Officer. The assessee, in fact, filed these details in the form of additional evidence before the CIT(Appeals). The CIT(Appeals) extracted the same at pages 3 and 4 of the impugned order. The CIT(Appeals) without examining the same, allowed the claim of the assessee. The CIT(Appeals) has not given any

opportunity to the Assessing Officer to offer comments on the additional material filed before him. Therefore, according to the Ld. D.R., there was a clear violation of Rule 46A of the Income-tax Rules, 1962.

4. We have considered the submission of the Ld. Departmental Representative and perused the relevant material available on record. Admittedly, the assessee has filed additional evidence which was extracted by the CIT(Appeals) at pages 3 and 4 of the impugned order. The additional material was filed in the form of cheque number, name of the bank, PAN, etc. Though the CIT(Appeals) has coterminous power that of the Assessing Officer, he has not made any independent enquiry in regard to the material filed by the assessee. The CIT(Appeals) has not given any opportunity to the Assessing Officer to examine the additional material filed before him. Therefore, there was a clear violation of Rule 46A. Therefore, this Tribunal is of the considered opinion that the matter needs to be reconsidered by the Assessing Officer in the light of the additional material filed by the assessee before the CIT(Appeals). Accordingly, the orders of the lower authorities are set aside. The addition made by the Assessing Officer under

Section 68 of the Act is remitted back to the file of the Assessing Officer. The Assessing Officer shall examine all the material facts including the material filed by the assessee before the CIT(Appeals) and thereafter decide the issue in accordance with law after giving reasonable opportunity to the assessee.

5. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced on 20th November, 2015 at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 20th November, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-6, Chennai
4. आयकर आयुक्त/CIT-II, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.